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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,021	08/22/2003	Robert H. Ray	RAY-001	9250

24739	7590	05/11/2007
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EXAMINER
CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
3635	

MAIL DATE	DELIVERY MODE
05/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/646,021

Applicant(s)

RAY ET AL.

Examiner

Chapman E. Jeanette

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37, 38 and 40-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37, 38 and 40-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37-38, 40, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallerstein, Jr (3193059) in view of McMahon (6061990).

Wallerstein discloses a body 14 of resilient rubber-like material having an upper portion contiguous with the lower portion and an upper and a lower end when disposed vertically. The body includes a constant area. The lower portion forming a truncated pyramid with four sides sloping inward from the lower end to a juncture with the upper portion. An elongated member of a length of tubing 1 extending into the body from the upper end of the body 14. The body is buried below ground with the upper end exposed ; this structure provides for a resilient stable anchor for a post or pole securely fastened to the elongate member at the upper end of the body. The elastic and resilient body allowing for movement of the post or pole without dislodging the body from the ground.

Wallerstein, Jr does not show the upper end of a square cross section but McMahon discloses a plastic post anchor footing with a non-circular cross section in a horizontal plane. MacMahon discloses the upper portion of square cross section. McMahon further discloses a lower pyramidal base portion with sides sloping inward

toward the elongate member. McMahon further discloses outwardly extending engaging members 15 contiguously formed on the outer periphery of the body for engaging the surrounding earth and forming a more stable engagement of the body.

It would have been obvious to include the upper portion of square cross section as shown McMahon to further provide additional anchoring properties to the footing system of Wallerstein, Jr. as taught by the secondary reference.

Wallerstein discloses a rubber or rubber like material. One of ordinary skill in the art would have selected any source convenient to the one making the device.


Claims 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallerstein, Jr (3193059) in view of McMahon (6061990) as applied to claim 37 and further in view of Ueda et al (6102627). Wallerstein further lacks the plurality of shelf like extensions extending around the periphery of the lower portion and spaced apart. Ueda et al discloses a plurality of shelf like extensions 21 extending around the periphery of the body 23. It would have been obvious to add these extensions to further ground the body of Wallerstein to prevent it from rising or from becoming dislodged from the ground.

Applicant's arguments with respect to claims 37-38 and 40-42 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JEANETTE CHAPMAN
PRIMARY EXAMINER
Art unit 3635
